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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,523	03/29/2002	Sadashige Irie	Q69144	7305
7590	10/20/2003			
Sughrue Mion Zinn Macpeak & Seas 2100 Pennsylvania Avenue Washington, DC 20037-3202				
EXAMINER NUTTER, NATHAN M				
ART UNIT		PAPER NUMBER		
1711				

DATE MAILED: 10/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/089,523

Applicant(s)

IRIE ET AL.

Examiner

Nathan M. Nutter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 11-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 11-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 603.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### **DETAILED ACTION**

The drawings filed with the application on 29 March 2002 are acceptable for examination.

The substitute specification filed 17 September 2003 has been entered.

The rejection of claims 1-7 and 11-13 under 35 U.S.C. 102(b) as being anticipated by Logothetis et al is hereby expressly withdrawn.

The rejection of claims 1, 2, 4-7, 12 and 13 under 35 U.S.C. 102(b) as being anticipated by Tung is hereby expressly withdrawn but not for the reasons asserted by applicants in the Response of 17 September 2003 at pages 8 and 9 thereof. Applicants' assertions with regard to claims 6 and 7 are correct. However, it is pointed out that the instant claims subject to the rejection did not require the elastomer to be fluorine-containing. The rejection is being withdrawn because the methyl methacrylate-ethyl acrylate copolymer is not characterized as an elastomer or rubber.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-7 and 11-13 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Okanishi et al, newly cited.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome

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either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

The reference to Okanishi et al teaches the instant invention at the Abstract, column 3 (line 48) to column 9 (line 55) and the Examples.

Claims 1-7 and 11-13 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Albano et al, newly cited.

The reference to Albano et al teaches the identical concept at the Abstract, column 2 (lines 10-47), column 3 (lines 6-13), column 4 (lines 47-60) and the claims. Since the compositions of the reference are identical in scope to those recited and claimed herein, the physical characteristics would, likewise, be identical.

### ***Response to Arguments***

Applicant's arguments filed 17 September 2003 have been fully considered but they are not persuasive.

With regard to the teachings of Okanishi et al, the matrix polymer is, indeed, disclosed as being an elastomer at column 3 (lines 6-17), column 4 (lines 10-25, 35-44 and 57-59), as well as other cites.

Due to the new grounds of rejection, this Office Action is NOT being made FINAL.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan M. Nutter whose telephone number is 703-308-2443. The examiner can normally be reached on Monday-Friday 9:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 703-308-2462. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

A handwritten signature in black ink, appearing to read 'Nathan M. Nutter', with a stylized, cursive script.

Nathan M. Nutter  
Primary Examiner  
Art Unit 1711

nmn  
12 October 2003